

## CIVIL COVER SHEET

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON THE REVERSE OF THE FORM.)

<b>I. (a) PLAINTIFFS</b> <u>Cathleen Gunner</u>  <b>(b) County of Residence of First Listed</b> <u>Philadelphia</u> (EXCEPT IN U.S. PLAINTIFF CASES)  <b>(c) Attorneys</b> <u>Xavier P. Hayden, Esquire, 1801 Market Street, Suite 606,</u> <u>Philadelphia, PA, 19103 - 215 561-0877</u> (Firm Name, Address, and Telephone Number)	<b>DEFENDANTS</b> <u>Motel 6 Operating L.P. and Accor North America, Inc</u>  <b>County of Residence of First Listed Defendant</b> _____ (IN U.S. PLAINTIFF CASES ONLY) NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE LAND INVOLVED.  <b>Attorneys</b> <u>Gerhard P. Dietrich, Esquire, Daller Greenberg &amp; Dietrich, LLP</u> <u>8 Tower Bridge, 161 Washington St., Ste. 900, Conshohocken, PA 19428; 215-836-1100</u> <b>Attorneys (If Known)</b> _____
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<b>II. BASIS OF JURISDICTION</b> (Place an "X" in One Box Only)  <input type="checkbox"/> 1 U.S. Government Plaintiff <input type="checkbox"/> 2 U.S. Government Defendant <input type="checkbox"/> 3 Federal Question (U.S. Government Not a Party) <input checked="" type="checkbox"/> 4 Diversity (Indicate Citizenship of Parties in Item III)	<b>III. CITIZENSHIP OF PRINCIPAL PARTIES</b> (Place an "X" in One Box for Plaintiff and One Box for Defendant) (For Diversity Cases Only) <table style="width: 100%;"> <tr> <td style="width: 33%;">Citizen of This State</td> <td style="width: 33%;">PTF <input checked="" type="checkbox"/> 1 DEF <input type="checkbox"/> 1</td> <td style="width: 33%;">Incorporated or Principal Place of Business in This State</td> <td style="width: 33%;">PTF <input type="checkbox"/> 4 DEF <input type="checkbox"/> 4</td> </tr> <tr> <td>Citizen of Another State</td> <td>PTF <input type="checkbox"/> 2 DEF <input type="checkbox"/> 2</td> <td>Incorporated and Principal Place of Business in Another State</td> <td>PTF <input type="checkbox"/> 5 DEF <input checked="" type="checkbox"/> 5</td> </tr> <tr> <td>Citizen or Subject of a Foreign Country</td> <td>PTF <input type="checkbox"/> 3 DEF <input type="checkbox"/> 3</td> <td>Foreign Nation</td> <td>PTF <input type="checkbox"/> 6 DEF <input type="checkbox"/> 6</td> </tr> </table>	Citizen of This State	PTF <input checked="" type="checkbox"/> 1 DEF <input type="checkbox"/> 1	Incorporated or Principal Place of Business in This State	PTF <input type="checkbox"/> 4 DEF <input type="checkbox"/> 4	Citizen of Another State	PTF <input type="checkbox"/> 2 DEF <input type="checkbox"/> 2	Incorporated and Principal Place of Business in Another State	PTF <input type="checkbox"/> 5 DEF <input checked="" type="checkbox"/> 5	Citizen or Subject of a Foreign Country	PTF <input type="checkbox"/> 3 DEF <input type="checkbox"/> 3	Foreign Nation	PTF <input type="checkbox"/> 6 DEF <input type="checkbox"/> 6
Citizen of This State	PTF <input checked="" type="checkbox"/> 1 DEF <input type="checkbox"/> 1	Incorporated or Principal Place of Business in This State	PTF <input type="checkbox"/> 4 DEF <input type="checkbox"/> 4										
Citizen of Another State	PTF <input type="checkbox"/> 2 DEF <input type="checkbox"/> 2	Incorporated and Principal Place of Business in Another State	PTF <input type="checkbox"/> 5 DEF <input checked="" type="checkbox"/> 5										
Citizen or Subject of a Foreign Country	PTF <input type="checkbox"/> 3 DEF <input type="checkbox"/> 3	Foreign Nation	PTF <input type="checkbox"/> 6 DEF <input type="checkbox"/> 6										

IV. NATURE OF SUIT (Place an "X" in One Box Only)					
<b>CONTRACT</b> <input type="checkbox"/> 110 Insurance <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Miller Act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment <input type="checkbox"/> 151 Medicare Act <input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excl. Veterans) <input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits <input type="checkbox"/> 160 Stockholders' Suits <input type="checkbox"/> 190 Other Contract <input type="checkbox"/> 195 Contract Product Liability <input type="checkbox"/> 196 Franchise	<b>TORTS</b> <b>PERSONAL INJURY</b> <input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault, Libel & Slander <input type="checkbox"/> 330 Federal Employers' Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input checked="" type="checkbox"/> 360 Other Personal Injury	<b>PERSONAL INJURY</b> <input type="checkbox"/> 362 Personal Injury - Med. Malpractice <input type="checkbox"/> 365 Personal Injury - Product Liability <input type="checkbox"/> 368 Asbestos Personal Injury Product Liability <b>PERSONAL PROPERTY</b> <input type="checkbox"/> 370 Other Fraud <input type="checkbox"/> 371 Truth in Lending <input type="checkbox"/> 380 Other Personal Property Damage <input type="checkbox"/> 385 Property Damage Product Liability	<b>FORFEITURE/PENALTY</b> <input type="checkbox"/> 610 Agriculture <input type="checkbox"/> 620 Other Food & Drug <input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881 <input type="checkbox"/> 630 Liquor Laws <input type="checkbox"/> 640 R.R. & Truck <input type="checkbox"/> 650 Airline Regs. <input type="checkbox"/> 660 Occupational Safety/Health <input type="checkbox"/> 690 Other <b>LABOR</b> <input type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor/Mgmt. Relations <input type="checkbox"/> 730 Labor/Mgmt. Reporting & Disclosure Act <input type="checkbox"/> 740 Railway Labor Act <input type="checkbox"/> 790 Other Labor Litigation <input type="checkbox"/> 791 Empl. Ret. Inc. Security Act	<b>BANKRUPTCY</b> <input type="checkbox"/> 422 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157 <b>PROPERTY RIGHTS</b> <input type="checkbox"/> 820 Copyrights <input type="checkbox"/> 830 Patent <input type="checkbox"/> 840 Trademark <b>SOCIAL SECURITY</b> <input type="checkbox"/> 861 HIA (1395ff) <input type="checkbox"/> 862 Black Lung (923) <input type="checkbox"/> 863 DIW C/DIWW (405(g)) <input type="checkbox"/> 864 SSID Title XVI <input type="checkbox"/> 865 RSI (405(g)) <b>FEDERAL TAX SUITS</b> <input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant) <input type="checkbox"/> 871 IRS-Third Party 26 USC 7609	<b>OTHER STATUTES</b> <input type="checkbox"/> 400 State Reapportionment <input type="checkbox"/> 410 Antitrust <input type="checkbox"/> 430 Banks and Banking <input type="checkbox"/> 450 Commerce <input type="checkbox"/> 460 Deportation <input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations <input type="checkbox"/> 480 Consumer Credit <input type="checkbox"/> 490 Cable/Sat TV <input type="checkbox"/> 810 Selective Service <input type="checkbox"/> 850 Securities/Commodities/Exchange <input type="checkbox"/> 875 Customer Challenge 12 USC 3410 <input type="checkbox"/> 890 Other Statutory Actions <input type="checkbox"/> 891 Agricultural Acts <input type="checkbox"/> 892 Economic Stabilization Act <input type="checkbox"/> 893 Environmental Matters <input type="checkbox"/> 894 Energy Allocation Act <input type="checkbox"/> 895 Freedom of Information Act <input type="checkbox"/> 900 Appeal of Fee Determination Under Equal Access to Justice <input type="checkbox"/> 950 Constitutionality of State Statutes
<b>REAL PROPERTY</b> <input type="checkbox"/> 210 Land Condemnation <input type="checkbox"/> 220 Foreclosure <input type="checkbox"/> 230 Rent Lease & Ejectment <input type="checkbox"/> 240 Torts to Land <input type="checkbox"/> 245 Tort Product Liability <input type="checkbox"/> 290 All Other Real Property	<b>CIVIL RIGHTS</b> <input type="checkbox"/> 441 Voting <input type="checkbox"/> 442 Employment <input type="checkbox"/> 443 Housing/Accommodations <input type="checkbox"/> 444 Welfare <input type="checkbox"/> 445 Amer. w/Disabilities - Employment <input type="checkbox"/> 446 Amer. w/Disabilities - Other <input type="checkbox"/> 440 Other Civil Rights	<b>PRISONER PETITIONS</b> <input type="checkbox"/> 510 Motions to Vacate Sentence Habeas Corpus: <input type="checkbox"/> 530 General <input type="checkbox"/> 535 Death Penalty <input type="checkbox"/> 540 Mandamus & Other <input type="checkbox"/> 550 Civil Rights <input type="checkbox"/> 555 Prison Condition			

V. ORIGIN (Place an "X" in One Box Only)						
<input type="checkbox"/> 1 Original Proceeding	<input checked="" type="checkbox"/> 2 Removed from State Court	<input type="checkbox"/> 3 Remanded from Appellate Court	<input type="checkbox"/> 4 Reinstated or Reopened	<input type="checkbox"/> 5 Transferred from another district (specify) _____	<input type="checkbox"/> 6 Multidistrict Litigation	<input type="checkbox"/> 7 Appeal to District Judge from Magistrate Judgment

VI. CAUSE OF ACTION	Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity): <u>28 USC 1332; 28 USC 1441</u> Brief description of cause: <u>Slip and Fall</u>
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VII. REQUESTED IN COMPLAINT:	<input type="checkbox"/> CHECK IF THIS IS A CLASS ACTION UNDER F.R.C.P. 23	DEMAND \$ <u>In excess of \$50,000</u>	CHECK YES only if demanded in complaint: <b>JURY DEMAND:</b> <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
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VIII. RELATED CASE(S) IF ANY	(See instructions):	JUDGE _____	DOCKET NUMBER _____
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DATE October 22, 2008 SIGNATURE OF ATTORNEY OF RECORD 

FOR OFFICE USE ONLY

RECEIPT # \_\_\_\_\_ AMOUNT \_\_\_\_\_ APPLYING IFP \_\_\_\_\_ JUDGE \_\_\_\_\_ MAG. JUDGE \_\_\_\_\_

FOR THE EASTERN DISTRICT OF PENNSYLVANIA — DESIGNATION FORM to be used by counsel to indicate the category of the case for the purpose of assignment to appropriate calendar.

Address of Plaintiff: 2016 North Woodstock Street, Philadelphia, Pennsylvania 19121

Address of Defendant: 4001 International Parkway, Carrollton, Texas 75011

Place of Accident, Incident or Transaction: 815 West DeKalb Pike, King of Prussia, Pennsylvania 19046  
(Use Reverse Side For Additional Space)

Does this civil action involve a nongovernmental corporate party with any parent corporation and any publicly held corporation owning 10% or more of its stock?

(Attach two copies of the Disclosure Statement Form in accordance with Fed.R.Civ.P. 7.1(a)).

Yes ☐ No ☒

Does this case involve multidistrict litigation possibilities?

Yes ☐ No ☒

RELATED CASE, IF ANY:

Case Number: \_\_\_\_\_ Judge \_\_\_\_\_ Date Terminated: \_\_\_\_\_

Civil cases are deemed related when yes is answered to any of the following questions:

1. Is this case related to property included in an earlier numbered suit pending or within one year previously terminated action in this court?  
Yes ☐ No ☒
2. Does this case involve the same issue of fact or grow out of the same transaction as a prior suit pending or within one year previously terminated action in this court?  
Yes ☐ No ☒
3. Does this case involve the validity or infringement of a patent already in suit or any earlier numbered case pending or within one year previously terminated action in this court?  
Yes ☐ No ☒

CIVIL: (Place    in ONE CATEGORY ONLY)

A. Federal Question Cases:

1. ☐ Indemnity Contract, Marine Contract, and All Other Contracts
2. ☐ FELA
3. ☐ Jones Act-Personal Injury
4. ☐ Antitrust
5. ☐ Patent
6. ☐ Labor-Management Relations
7. ☐ Civil Rights
8. ☐ Habeas Corpus
9. ☐ Securities Act(s) Cases
10. ☐ Social Security Review Cases
11. ☐ All other Federal Question Cases  
(Please specify)

B. Diversity Jurisdiction Cases:

1. ☐ Insurance Contract and Other Contracts
2. ☐ Airplane Personal Injury
3. ☐ Assault, Defamation
4. ☐ Marine Personal Injury
5. ☐ Motor Vehicle Personal Injury
6. ☒ Other Personal Injury (Please specify) Slip and Fall
7. ☐ Products Liability
8. ☐ Products Liability — Asbestos
9. ☐ All other Diversity Cases  
(Please specify)

ARBITRATION CERTIFICATION

(Check appropriate Category)

I, Gerhard L. Dietrich, counsel of record do hereby certify:

Pursuant to Local Civil Rule 53.2, Section 3(c)(2), that to the best of my knowledge and belief, the damages recoverable in this civil action case exceed the sum of \$150,000.00 exclusive of interest and costs;

☐ Relief other than monetary damages is sought.

DATE: \_\_\_\_\_

Attorney-at-Law

Attorney I.D.# \_\_\_\_\_

NOTE: A trial de novo will be a trial by jury only if there has been compliance with F.R.C.P. 38.

I certify that, to my knowledge, the within case is not related to any case now pending or within one year previously terminated action in this court except as noted above.

DATE: October 22, 2008

Attorney-at-Law

41739  
Attorney I.D.#

CIV. 609 (4/03)

FOR THE EASTERN DISTRICT OF PENNSYLVANIA — DESIGNATION FORM to be used by counsel to indicate the category of the case for the purpose of assignment to appropriate calendar.

Address of Plaintiff: 2016 North Woodstock Street, Philadelphia, Pennsylvania 19121

Address of Defendant: 4001 International Parkway, Carrollton, Texas 75011

Place of Accident, Incident or Transaction: 815 West DeKalb Pike, King of Prussia, Pennsylvania 19046  
(Use Reverse Side For Additional Space)

Does this civil action involve a nongovernmental corporate party with any parent corporation and any publicly held corporation owning 10% or more of its stock?  
(Attach two copies of the Disclosure Statement Form in accordance with Fed.R.Civ.P. 7.1(a)). Yes ☐ No ☒

Does this case involve multidistrict litigation possibilities? Yes ☐ No ☒  
**RELATED CASE, IF ANY:**

Case Number: \_\_\_\_\_ Judge \_\_\_\_\_ Date Terminated: \_\_\_\_\_

Civil cases are deemed related when yes is answered to any of the following questions:

1. Is this case related to property included in an earlier numbered suit pending or within one year previously terminated action in this court?  
Yes ☐ No ☒
2. Does this case involve the same issue of fact or grow out of the same transaction as a prior suit pending or within one year previously terminated action in this court?  
Yes ☐ No ☒
3. Does this case involve the validity or infringement of a patent already in suit or any earlier numbered case pending or within one year previously terminated action in this court?  
Yes ☐ No ☒

CIVIL: (Place    in ONE CATEGORY ONLY)

A. Federal Question Cases:

1. ☐ Indemnity Contract, Marine Contract, and All Other Contracts
2. ☐ FELA
3. ☐ Jones Act-Personal Injury
4. ☐ Antitrust
5. ☐ Patent
6. ☐ Labor-Management Relations
7. ☐ Civil Rights
8. ☐ Habeas Corpus
9. ☐ Securities Act(s) Cases
10. ☐ Social Security Review Cases
11. ☐ All other Federal Question Cases  
(Please specify)

B. Diversity Jurisdiction Cases:

1. ☐ Insurance Contract and Other Contracts
2. ☐ Airplane Personal Injury
3. ☐ Assault, Defamation
4. ☐ Marine Personal Injury
5. ☐ Motor Vehicle Personal Injury
6. ☒ Other Personal Injury (Please specify) Slip and Fall
7. ☐ Products Liability
8. ☐ Products Liability — Asbestos
9. ☐ All other Diversity Cases  
(Please specify)

**ARBITRATION CERTIFICATION**

(Check appropriate Category)

I, Carroll D. DeVries, counsel of record do hereby certify:

Pursuant to Local Civil Rule 53.2, Section 3(c)(2), that to the best of my knowledge and belief, the damages recoverable in this civil action case exceed the sum of \$150,000.00 exclusive of interest and costs;

☐ Relief other than monetary damages is sought.

DATE: \_\_\_\_\_

\_\_\_\_\_  
Attorney-at-Law

\_\_\_\_\_  
Attorney I.D.#

**NOTE:** A trial de novo will be a trial by jury only if there has been compliance with F.R.C.P. 38.

I certify that, to my knowledge, the within case is not related to any case now pending or within one year previously terminated action in this court except as noted above.

DATE: October 22, 2008

Carroll D. DeVries  
Attorney-at-Law

41739  
Attorney I.D.#

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF PENNSYLVANIA

Cathleen Gunner

V.

Motel 6, et al

:  
:  
:  
:  
:  
:

Civil Action

No: \_\_\_\_\_

DISCLOSURE STATEMENT FORM

Please check one box:

☒ The nongovernmental corporate party, Accor North America, Inc., in the above listed civil action does not have any parent corporation and publicly held corporation that owns 10% or more of its stock.

☐ The nongovernmental corporate party, \_\_\_\_\_, in the above listed civil action has the following parent corporation(s) and publicly held corporation(s) that owns 10% or more of its stock:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

10/22/08

Date

Signature

Counsel for: Motel 6 Operating L.P. and  
Accor North America, Inc. (f/k/a  
Motel 6 G.P., Inc.)

**Federal Rule of Civil Procedure 7.1 Disclosure Statement**

(a) WHO MUST FILE; CONTENTS. A nongovernmental corporate party must file two copies of a disclosure statement that:

- (1) identifies any parent corporation and any publicly held corporation owning 10% or more of its stock; or
- (2) states that there is no such corporation.

(b) TIME TO FILE; SUPPLEMENTAL FILING. A party must:

- (1) file the disclosure statement with its first appearance, pleading, petition, motion, response, or other request addressed to the court; and
- (2) promptly file a supplemental statement if any required information changes.

IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

CATHLEEN GUNNER	:	CIVIL ACTION
	:	
v.	:	
	:	
MOTEL 6 and	:	
MOTEL 6 OPERATING L.P.,	:	NO.
d/b/a, a/k/a, t/a	:	
MOTEL 6 and MOTEL 6	:	
OPERATING LP c/o M.F. POER &	:	
CO., a/k/a, t/a, d/b/a MOTEL 6 and	:	
MOTEL 6 OPERATING L.P. and	:	
MOTEL 6 G.P., INC.	:	JURY OF 12 DEMANDED

**NOTICE OF REMOVAL**

Defendants, Motel 6 Operating L.P. and Accor North America, Inc. (f/k/a Motel 6 G.P., Inc.), by and through their attorneys, Daller Greenberg & Dietrich, LLP, hereby give notice of the removal of this civil action from the Court of Common Pleas of Philadelphia County to the United States District Court for the Eastern District of Pennsylvania. This notice of removal is filed pursuant to 28 U.S.C. §§1441(a) and 1446. As grounds for removal, defendants aver as follows:

1. On September 18, 2008, plaintiff filed a Complaint in the Court of Common Pleas of Philadelphia County, captioned: *Cathleen Gunner vs. Motel 6 and Motel 6 Operating L.P., d/b/a, a/k/a, t/a Motel 6 and Motel 6 Operating LP c/o M.F. Poer & Co., a/k/a, t/a, d/b/a Motel 6 and Motel 6 Operating L.P. and Motel 6 G.P., Inc.*, and docketed as September Term, 2008, No. 002987. Defendants received the Complaint for the first time when it was served on September 29, 2008. A true and correct copy of the Complaint is attached hereto as Exhibit "A."

2. The document attached hereto as Exhibit "A" constitutes all pleadings, process and other papers served upon defendants in this action.

3. Plaintiff's Complaint was the first pleading setting forth plaintiff's claim for relief in this case.

4. This notice of removal is being filed within thirty days after receipt by the defendant of a copy of the initial pleading setting forth the claim for relief upon which plaintiff's action is based. The time for removal has, therefore, not expired. 28 U.S.C. § 1446(b).

5. This is a civil action over which this Court has original jurisdiction pursuant to 28 U.S.C. § 1332 in that the proper parties are citizens of different states and the amount in controversy exceeds \$75,000, exclusive of interest and costs.

6. Plaintiff alleges in her Complaint that on or about March 18, 2007, she sustained personal injuries when she was caused to fall on "an area of ice, and/or snow in hills and ridges and black ice" due to the negligent maintenance of the parking lot at a Motel 6 owned and controlled by defendants. *See* Exhibit "A," Complaint at ¶¶ 9-10, 2-6.

7. Although Motel 6 Operating, L.P. is named in a variety of ways in the Complaint and caption, the only named defendants that exist as legal entities, and existed at the time plaintiff's Complaint was filed, are Motel 6 Operating, L.P. and Accor North America, Inc. (f/k/a Motel 6 G.P., Inc.).<sup>1</sup>

8. At the time the Complaint was filed and at the time this Notice is being filed, defendant Motel 6 Operating L.P. was and is a limited partnership organized and existing under and by virtue of the laws of the State of Delaware, with its principal place of business located in the State of Texas.

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<sup>1</sup> Plaintiff also refers to M.F. Poer & Co. in the Complaint, but only as an alleged agent of Motel 6 Operating, L.P. for purposes of service of process. *See* Exhibit "A," Complaint at ¶ 6. M.F. Poer & Co. is a property tax consulting firm which has not been used by either defendant since well before the accident at issue.

9. The only partners of Motel 6 Operating, L.P. are Accor North America, Inc. and IBL Limited LLC. The managing general partner, Accor North America, Inc. is, and at time this action was commenced was a corporation organized under and by virtue of the laws of the State of Delaware, with its principal place of business located in the State of Texas. The limited partner, IBL Limited LLC is, and at time this action was commenced was, a limited liability company organized and existing by virtue of the laws of the State of Delaware, with its principal place of business located in the State of Delaware.

10. Defendant Accor North America, Inc. was formerly known as Motel 6 G.P., Inc. As stated above, Accor North America, Inc. is a Delaware corporation with a principal place of business in the State of Texas.

11. To the best of defendants' information, knowledge and belief, at the time plaintiff's Complaint was filed, and at the time this notice is being filed, plaintiff Cathleen Gunner was and is a citizen of the Commonwealth of Pennsylvania. *See* Exhibit "A," Complaint at ¶ 1.

12. Plaintiff makes an open ended claim for damages in excess of \$50,000.00. *See* Exhibit "A," ad damnum clause.

13. A reasonable reading of the value of the rights plaintiff claims and the damages sought shows that plaintiff seeks damages in an amount in excess of \$75,000.00, exclusive of interest and costs.

14. Plaintiff alleges she "sustained serious and painful injuries including but not limited to: herniated disc L4-5, S1 radiculopathy, internal derangement right knee, . . . as well as a severe shock to the nerves and nervous system of said plaintiff who was otherwise bruised

lamed and disordered, some or all of which may be permanent in nature. *See* Exhibit “A,” Complaint at ¶ 12.

15. Plaintiff also claims a “serious permanent impairment,” a period of disability, loss of earnings and loss of earnings capacity, unspecified past and future medical expenses, “great physical pain and mental anguish,” and a shortening of her life expectancy. *See* Exhibit “A,” Complaint at ¶¶ 13-16.

16. Thus, the amount in controversy, based on the allegations set forth in the Complaint, is in excess of \$75,000, exclusive of interest and costs. *See Angus v. Shiley Inc.*, 989 F.2d 142, 146 (3d Cir. 1993) (amount in controversy not measured by low end of open-ended claim, but by reasonable reading of value of rights being litigated) (citations omitted); *Corwin Jeep Sales & Service, Inc. v. Am. Motors Sales Corp.*, 670 F. Supp. 591, 596 (M.D. Pa. 1986) (when complaint does not contain demand for specific monetary amount, court may look to petition for removal and make independent appraisal of value of claim).

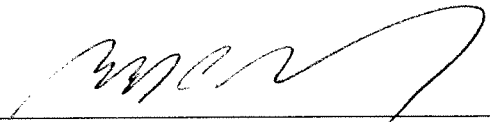
17. Diversity of citizenship exists between the plaintiff, a resident of the Commonwealth of Pennsylvania, and the defendants, one defendant being a limited partnership organized and existing under the laws of the State of Delaware, with its principal place of business in the State of Texas and with partners that are citizens of states other than Pennsylvania, and the other defendant being a Delaware corporation with its principal place of business in Texas. The said diversity of citizenship existed at the time this action was commenced and continues to the time of the filing of this Notice.

18. Venue is properly laid in this district pursuant to 28 U.S.C.A. § 1441(a) because it is the district embracing the state court in which the action was originally filed.

19. Pursuant to 28 U.S.C. §1446(d), a copy of this notice of removal is being served on all parties and filed with the Prothonotary of the Philadelphia Court of Common Pleas.

**WHEREFORE**, this Court has jurisdiction pursuant to 28 U.S.C. §1332(a), based on the diversity of citizenship between the plaintiff and defendants, and removal pursuant to 28 U.S.C. §1441(a) is appropriate.

DALLER GREENBERG & DIETRICH, LLP

By: 

Gerhard P. Dietrich  
Eight Tower Bridge  
161 Washington Street – Suite 900  
Conshohocken, PA 19428-2085  
(215) 836 1100  
Attorneys for Defendants,  
Motel 6 Operating L.P. and  
Accor North America, Inc.

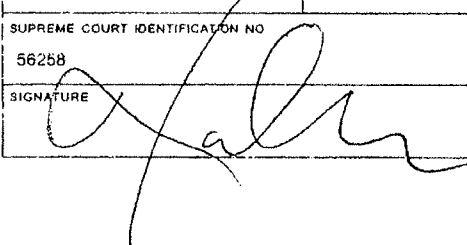
Date: 10/22/08

**Exhibit “A”**

Court of Common Pleas of Philadelphia County  
Trial Division  
**Civil Cover Sheet**

For Prothonotary Use Only (Docket Number)

002387

PLAINTIFF'S NAME Cathleen Gunner		DEFENDANT'S NAME Motel 6									
PLAINTIFF'S ADDRESS 2016 North Woodstock Street Philadelphia, PA 19121		DEFENDANT'S ADDRESS 815 West DeKalb Pike King of Prussia, PA 19046									
PLAINTIFF'S NAME		DEFENDANT'S NAME Motel 6 Operating L.P., d/b/a, a/k/a, v/a Motel 6									
PLAINTIFF'S ADDRESS		DEFENDANT'S ADDRESS 815 West DeKalb Pike King of Prussia, PA 19046									
PLAINTIFF'S NAME		DEFENDANT'S NAME Motel 6 Operating LP c/o M.F. Poer & Co., a/k/a,									
PLAINTIFF'S ADDRESS		DEFENDANT'S ADDRESS P.O. Box 117508 Carrollton, TX 75011									
TOTAL NUMBER OF PLAINTIFFS 1	TOTAL NO. OF DEFENDANTS 5	COMMENCEMENT OF ACTION <input checked="" type="checkbox"/> Complaint <input type="checkbox"/> Petition Action <input type="checkbox"/> Notice of Appeal <input type="checkbox"/> Writ of Summons <input type="checkbox"/> Transfer From Other Jurisdictions									
AMOUNT IN CONTROVERSY <input type="checkbox"/> \$50,000.00 or less <input checked="" type="checkbox"/> More than \$50,000.00	COURT PROGRAMS <input type="checkbox"/> Arbitration <input type="checkbox"/> Mass Tort <input type="checkbox"/> Commerce <input type="checkbox"/> Settlement <input checked="" type="checkbox"/> Jury <input type="checkbox"/> Savings Action <input type="checkbox"/> Minor Court Appeal <input type="checkbox"/> Minors <input type="checkbox"/> Non-Jury <input type="checkbox"/> Petition <input type="checkbox"/> Statutory Appeals <input type="checkbox"/> W/D/Survival <input type="checkbox"/> Other: _____										
CASE TYPE AND CODE (SEE INSTRUCTIONS)  2S											
STATUTORY BASIS FOR CAUSE OF ACTION (SEE INSTRUCTIONS)											
RELATED PENDING CASES (LIST BY CASE CAPTION AND DOCKET NUMBER)			IS CASE SUBJECT TO COORDINATION ORDER?  <table border="1"> <tr> <th>Yes</th> <th>No</th> </tr> <tr> <td><input type="checkbox"/></td> <td><input type="checkbox"/></td> </tr> <tr> <td><input type="checkbox"/></td> <td><input type="checkbox"/></td> </tr> <tr> <td><input type="checkbox"/></td> <td><input type="checkbox"/></td> </tr> </table>	Yes	No	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Yes	No										
<input type="checkbox"/>	<input type="checkbox"/>										
<input type="checkbox"/>	<input type="checkbox"/>										
<input type="checkbox"/>	<input type="checkbox"/>										
TO THE PROTHONOTARY: Kindly enter my appearance on behalf of Plaintiff/Petitioner/Appellant: Papers may be served at the address set forth below.											
NAME OF PLAINTIFF'S/PETITIONER'S/APPELLANT'S ATTORNEY Xavier P. Hayden, Esquire		ADDRESS (SEE INSTRUCTIONS) 1801 Market Street, Suite 606 Philadelphia, PA 19103									
PHONE NUMBER (215) 561-0877	FAX NUMBER (215) 561-3557										
SUPREME COURT IDENTIFICATION NO 56258		E-MAIL ADDRESS									
SIGNATURE 		DATE 9/16/08									

## Court of Common Pleas of Philadelphia County

## Trial Division

**Civil Cover Sheet**  
*(Supplemental Parties)*

		For Prothonotary Use Only (Docket Number)
		<b>002987</b>
PLAINTIFF'S NAME	DEFENDANT'S NAME	
	Motel 6 Operating L.P.	
PLAINTIFF'S ADDRESS	DEFENDANT'S ADDRESS	
	4001 International Parkway, Carrollton, TX 75011	
PLAINTIFF'S NAME	DEFENDANT'S NAME	
	Motel 6 G.P., Inc.	
PLAINTIFF'S ADDRESS	DEFENDANT'S ADDRESS	
	4001 International Parkway, Carrollton, TX 75011	
PLAINTIFF'S NAME	DEFENDANT'S NAME	
PLAINTIFF'S ADDRESS	DEFENDANT'S ADDRESS	
PLAINTIFF'S NAME	DEFENDANT'S NAME	
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PLAINTIFF'S ADDRESS	DEFENDANT'S ADDRESS	
PLAINTIFF'S NAME	DEFENDANT'S NAME	
PLAINTIFF'S ADDRESS	DEFENDANT'S ADDRESS	

**JURY TRIAL DEMANDED.**

**DION, SOLOMON & SHAPIRO, L.L.C.**  
**BY: XAVIER P. HAYDEN, ESQUIRE**  
**Identification No.: 56258**  
**Ten Penn Center**  
**1801 Market Street, Suite 606**  
**Philadelphia, PA 19103**  
**Telephone: (215) 561-0877**

**ATTORNEY FOR PLAINTIFF**

**CATHLEEN GUNNER**  
**2016 North Woodstock Street**  
**Philadelphia, Pennsylvania 19121**

**COURT OF COMMON PLEAS**  
**PHILADELPHIA COUNTY**

**vs.**

**MOTEL 6**  
**815 West DeKalb Pike**  
**King of Prussia, Pennsylvania 19046**  
**and**  
**MOTEL 6 OPERATING L.P., d/b/a, a/k/a, t/a**  
**MOTEL 6**  
**815 West DeKalb Pike**  
**King of Prussia, Pennsylvania 19046**  
**and**  
**MOTEL 6 OPERATING LP c/o M.F. POER &**  
**CO., a/k/a/, t/a, d/b/a MOTEL 6**  
**P.O. Box 117508**  
**Carrollton, Texas 75011**  
**and**  
**MOTEL 6 OPERATING L.P.**  
**4001 International Parkway**  
**Carrollton, Texas 75011**  
**and**  
**MOTEL 6 G.P., INC.**  
**4001 International Parkway**  
**Carrollton, Texas 75011**

**JURY FEE PAID**

**SEP 18 2008**

**NO.: TERM, 2008**  
**002987**

**ATTEST**

**SEP 18 2008**

**CIVIL ACTION (2. Personal Injury)**  
**2120 PREMISES LIABILITY, SLIP AND FALL**

## "NOTICE

" You have been sued in court. If you wish to defend against the claims set forth in the following pages, you must take action within twenty (20) days after this complaint and notice are served, by entering a written appearance personally or by attorney and filing in writing with the court your defenses or objections to the claims set forth against you. You are warned that if you fail to do so the case may proceed without you and a judgment may be entered against you by the court without further notice for any money claimed in the complaint for any other claim or relief requested by the plaintiff. You may lose money or property or other rights important to you.

" YOU SHOULD TAKE THIS PAPER TO YOUR LAWYER AT ONCE. IF YOU DO NOT HAVE A LAWYER OR CANNOT AFFORD ONE, GO TO OR TELEPHONE THE OFFICE SET FORTH BELOW TO FIND OUT WHERE YOU CAN GET LEGAL HELP.

PHILADELPHIA BAR ASSOCIATION  
LAWYER REFERRAL and INFORMATION SERVICE  
One Reading Center  
Philadelphia, Pennsylvania 19107  
(215) 238-1701"

## "AVISO

"Le han demandado a usted en la corte. Si usted quiere defenderse de estas demandas expuestas en las páginas siguientes, usted tiene veinte (20) días, de plazo al partir de la fecha de la demanda y la notificación. Hace falta Asentar una comparencia escrita o en persona o con un abogado y entregar A la corte en forma escrita sus defensas o sus objeciones a las demandas en Contra de sus persona. Sea avisado que si usted no se defiende, la corte tomara Medidas y puede continuar la demanda en contra suya sin previo aviso o notificación. Ademas, la corte puede decidir a favor del demandante y requiere que usted puede Perder dinero o sus propiedades u otros derechos importantes para usted.

"LLEVE ESTA DEMANDA A UN ABOGADO INMEDIATAMENTE. SI NO TIENE ABOGADO O SI NO TIENE EL DINERO SUFICIENTE DE PAGAR TAL SERVICIO, VAYA EN PERSONA O LLAME POR TELÉFONO A LA OFICINA CUYA DIRECCIÓN SE ENCUENTRA ESCRITA ABAJO PARA AVERIGUAR DONDE SE PUEDE CONSEGUIR ASISTENCIA LEGAL.

ASOCIACION DE LICENCIADOS DE FILADELPHIA  
SERVICIO DE REFERENCIA E INFORMACION LEGAL  
One Reading Center  
Filadelfia, Pennsylvania 19107

**JURY TRIAL DEMANDED.**

**DION, SOLOMON & SHAPIRO, L.L.C.**  
**BY: XAVIER P. HAYDEN, ESQUIRE**  
**Identification No.: 56258**  
**Ten Penn Center**  
**1801 Market Street, Suite 606**  
**Philadelphia, PA 19103**  
**Telephone: (215) 561-0877**

**ATTORNEY FOR PLAINTIFF**

**CATHLEEN GUNNER**  
**2016 North Woodstock Street**  
**Philadelphia, Pennsylvania 19121**

**COURT OF COMMON PLEAS**  
**PHILADELPHIA COUNTY**

**vs.**

**MOTEL 6**  
**815 West DeKalb Pike**  
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**and**  
**MOTEL 6 OPERATING L.P., d/b/a, a/k/a, t/a**  
**MOTEL 6**  
**815 West DeKalb Pike**  
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**and**  
**MOTEL 6 OPERATING LP c/o M.F. POER &**  
**CO., a/k/a, t/a, d/b/a MOTEL 6**  
**P.O. Box 117508**  
**Carrollton, Texas 75011**  
**and**  
**MOTEL 6 OPERATING L.P.**  
**4001 International Parkway**  
**Carrollton, Texas 75011**  
**and**  
**MOTEL 6 G.P., INC.**  
**4001 International Parkway**  
**Carrollton, Texas 75011**

**TERM, 2008**  
**NO.: 002987**

**CIVIL ACTION (2. Personal Injury)**  
**2120 PREMISES LIABILITY, SLIP AND FALL**  
**COMPLAINT**

1. The Plaintiff, **CATHLEEN GUNNER**, is an adult individual who at all times material hereto, resided at 2016 North Woodstock Street, Philadelphia, Pennsylvania 19121.

2. At all times material hereto, Defendant, **MOTEL 6**, upon information and belief, is a business, corporation and/or entity created and existing under the laws of the Commonwealth of Pennsylvania with a place of business located at 815 West DeKalb Pike, City of King of Prussia, County of Montgomery, Commonwealth of Pennsylvania, did own and have under its care, direction, supervision, and control the premises known as **MOTEL 6**.

3. The Defendant, **MOTEL 6 OPERATING L.P., d/b/a, a/k/a, t/a MOTEL 6**, upon information and belief, is a business, corporation and/or entity created and/or existing under the laws of the Commonwealth of Pennsylvania with a place of business located at 815 West DeKalb Pike, City of King of Prussia, County of Montgomery, Commonwealth of Pennsylvania, did own and have under its care, direction, supervision, and control the premises known as **MOTEL 6**.

4. The Defendant, **MOTEL 6 OPERATING LP c/o M.F. POER & CO., a/k/a, t/a, d/b/a MOTEL 6**, upon information and belief, is a partnership, corporation, and/or company, created and/or existing under the laws of the Commonwealth of Pennsylvania and did at all times relevant hereto own, operate, maintain, and control the defendant's premises, known as **MOTEL 6**, and at all times material hereto had under its care, direction, supervision, control and maintenance said premises.

5. The Defendant, **MOTEL 6 OPERATING, L.P.**, upon information and belief, is a partnership, corporation, and/or company, created and/or existing under the laws of the Commonwealth of Pennsylvania with a principal place of business at 4001 International Parkway, Carrollton, Texas 75011, and did at all times relevant hereto own, operate, maintain

and control the defendant's premises, known as **MOTEL 6**, and at all times material hereto had under its care, direction, supervision, control and maintenance said premises.

6. The Defendant, **MOTEL 6 G.P., INC.**, upon information and belief, is a partnership, corporation, and/or company, created and/or existing under the laws of the Commonwealth of Pennsylvania with a principal place of business at 4001 International Parkway, Carrollton, Texas 75011, and did at all times hereto own, operate, maintain and control the defendant's premises, known as **MOTEL 6**, and at all times material hereto had under its care, direction, supervision, control and maintenance said premises.

7. At all times material hereto, defendants acted or failed to act through its agents, servants, workmen and/or employees, who were then and there acting within the course and scope of such relationship.

**COUNT I - NEGLIGENCE**  
**PLAINTIFF v. DEFENDANTS**

8. Plaintiff hereby incorporate by reference each and every of the allegations contained in paragraphs 1 through 7 above, as though same were more fully set forth herein at length.

9. On or about March 18, 2007, at or about 11:00 p.m., Plaintiff, **CATHLEEN GUNNER**, and for a long period of time prior thereto, there existed a dangerous and defective condition consisting of an area of ice, and/or snow in hills and ridges and black ice in the parking lot are of the aforesaid premises, resulting from the negligent maintenance of the said areas, which was carelessly and negligently allowed and permitted to exist and remain thereon.

10. On or about March 18, 2007, at or about 11:00 p.m., Plaintiff, **CATHLEEN GUNNER**, while lawfully a business invitee and while proceeding onto the aforesaid area,

was caused to fall due to the negligent maintenance of the aforementioned areas resulting in serious personal injuries more fully hereinafter described.

11. The negligence and recklessness of the Defendants by their agents, servants, workman and/or employees consisted of the following:

- (a) permitting or allowing the aforesaid condition to exist on the above mentioned premises, supervised by the same, after they could or should have had constructive notice of said condition;
- (b) failing to give Plaintiff, **CATHLEEN GUNNER**, proper and due notice of the defective condition existing on the aforesaid premises;
- (c) failing to place warnings or barricades at the point of the accident to prevent the occurrence heretofore recited;
- (d) failing to give Plaintiff, **CATHLEEN GUNNER**, proper and adequate protection to which said plaintiff was entitled;
- (e) failing to provide adequate illumination of the said defective area to alert, Plaintiff, **CATHLEEN GUNNER**, to the inherently dangerous nature of the aforementioned slippery condition;
- (f) plaintiff reserves the right to present the legal principals of exclusive control and *re ipsa loquitur*; and,
- (g) negligence in other respects which may be well be pointed out at the time of trial.

12. As a result of the aforesaid incident, Plaintiff, **CATHLEEN GUNNER**, sustained serious and painful injuries including but not limited to: herniated disc L4-5, S1 radiculopathy, internal derangement right knee, as well as other such injuries which may be shown at the time of trial, as well as a severe shock to the nerves and nervous system of said plaintiff who was otherwise bruised lamed and disordered, some or all of which may be permanent in nature.

13. As a result of the above mentioned slip and fall incident, the injuries sustained by Plaintiff, **CATHLEEN GUNNER**, have resulted in permanent serious impairment.

14. As a result of this accident, Plaintiff, **CATHLEEN GUNNER**, has been and will be obliged to receive and undergo medical attention, has sustained a period of disability as well as a loss of earnings and/or earning capacity and/or power. She has been forced to expend various and large sums of monies for medical services, x-rays, medications, hospitalizations and/or other various expenses described as "allowable expense" and "work loss" and/or "replacement service," further, said plaintiff may be obligated to continue to expend such sums or incur such expenditures for a long and indefinite time in the future.

15. As a result of the accident, hereinbefore referred and described, and a result of the injuries before referred, Plaintiff, **CATHLEEN GUNNER**, has suffered great physical pain and mental anguish, all of which may continue into the future.

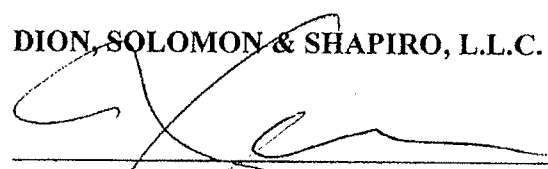
16. Further, as a result of the incident, hereinbefore referred to and as a result of the injuries sustained therefrom, Plaintiff, **CATHLEEN GUNNER**, has suffered a loss of the enjoyment of plaintiff's usual duties, life's pleasures and activities and a shortening of the life expectancy of said plaintiff all to said plaintiff's great detriment and loss.

17. Plaintiff, **CATHLEEN GUNNER**, in no manner contributed to the injuries which resulted from the direct negligence of the Defendants.

**WHEREFORE**, Plaintiff, **CATHLEEN GUNNER**, demands judgment against the defendants, jointly and severally, and aver that the sum in controversy is ~~more~~ in excess of Fifty Thousand (\$ 50,000.00) Dollars each, plus interest and costs of this action.

**DION, SOLOMON & SHAPIRO, L.L.C.**

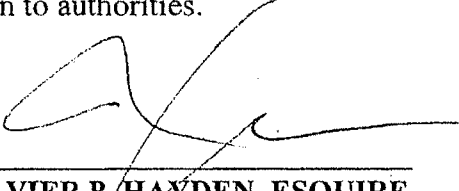
BY:

  
XAVIER P. HAYDEN, ESQUIRE  
Attorney for Plaintiff

**DATED: September 16, 2008**

**VERIFICATION**

XAVIER P. HAYDEN, ESQUIRE, hereby states that he is the attorney of record in this action and verifies that the statements made in the foregoing pleading are true and correct to the best of his knowledge, information and belief. The undersigned understands that the statements therein are made subject to the penalties of 18 Pa. C.S. Section 4904 relating to unsworn falsification to authorities.

---

**XAVIER P. HAYDEN, ESQUIRE**  
Attorney for Plaintiff

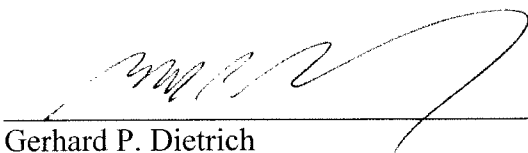
**DATED: September 16, 2008**

**CERTIFICATE OF SERVICE**

I, Gerhard P. Dietrich, hereby certify that a true and correct copy of the Notice of Removal was served via United States first class mail on the date indicated addressed to the following:

***Attorney for Plaintiff***

Xavier P. Hayden, Esquire  
Dion, Solomon & Shapiro, L.L.C.  
Ten Penn Center  
1801 Market Street, Suite 606  
Philadelphia, PA 19103

  
Gerhard P. Dietrich

Date: October 22, 2008